

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Anacapa Associates, LLC,
Appellant,

v.

Black Hawk County Board of Review,
Appellee.

ORDER

Docket No. 12-07-0566
Parcel No. 8813-04-305-004

On November 19, 2013, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Eric Johnson, Waterloo, Iowa represented Appellant Anacapa Associates, LLC. Assistant County Attorney Dave Mason represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Anacapa Associates, LLC, is the owner of two-family conversion located at 3702-3704 Loralin Drive, Waterloo, Iowa. The property was classified residential as of January 1, 2012, and valued at \$190,050, representing \$43,680 in land value and \$146,370 in improvement value. There was no change in value from the 2011 assessment.

Anacapa protested its assessment to the Black Hawk County Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2) and that there was a change in value since the last assessment under sections 441.37(1)(b) and 441.35(2). The Board of Review denied the protest stating “insufficient evidence presented to prove a downward change in value since last assessment.”

Anacapa then appealed to this Board. In its appeal, Anacapa appears to reassert a claim of over-assessment stating “that the tax should be lowered to reflect the property’s fair market value.” Because there was no change in value from the previous assessment, the only ground this Board can consider on appeal is downward change in value. Iowa Code §§ 441.35(2), 441.37(1)(b); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). This is the only ground available in an “interim year,” such as 2012, when the assessor has not changed the property’s assessment. § 441.35(2).

The property record card indicates the subject is a brick two-story, two-family conversion with a finished attic built in 1901. It has 3173 square feet of above-grade living area; a full, unfinished basement; an enclosed porch and an open porch. The site is 0.534 acres.

Anacapa purchased the subject property in November 2010 for \$92,500. It was a bank-owned property, also known as a Real Estate Owned (REO) property according to the multiple listing sheet (MLS). The record also includes a property inspection report from National Property Inspections. The report is undated and was completed by Dale Griswold. The report concludes some deferred maintenance, but ultimately indicates the property is habitable and the majority of the deferred maintenance issues are the result of normal wear and tear.

The Board of Review submitted an October 2013 letter from Black Hawk County Assessor Tami McFarland. McFarland’s letter explains her opinion that the sale price is not reflective of an arm’s length transaction.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

In a non-reassessment or "interim" year, when the property's assessment has not changed, a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code §§ 441.35(2), 441.37(1)(b); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Id.*, 252 N.W.2d at 450. The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

Anacapa provided an MLS sheet for the subject property, which indicates the subject was an REO sale at the time it was purchased in January 2010. The sales price in an abnormal transaction is not to be considered unless the distorting factors can be clearly accounted for. Iowa Code

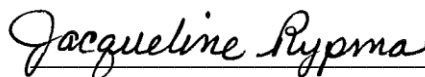
§ 441.21(1)(b). Section 441.21(1)(b) states that foreclosures are abnormal transactions. Moreover, Anacapa failed to provide sufficient evidence of either the January 1, 2011, or the January 1, 2012, fair market values. Both values are required to support a claim of change in value. *Equitable Life Ins. Co.*, 252 N.W.2d at 450.

THE APPEAL BOARD ORDERS the assessment of Anacapa Association, LLC's property located at 3702-3704 Loralin Drive, Waterloo, Iowa, as determined by Black Hawk County for January 1, 2012, is affirmed.

Dated this 27th day of December, 2013.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member

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